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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1011 OF 2016

Sachin@ Arvind Tatyaba Supekar	 Applicant
V/s.	
The State of Maharashtra	 Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.1012 OF 2016

Santosh @ Keshav Mohan Bagal and ors	 Applicants
V/s.	
The State of Maharashtra	 Respondent

Mr. Rahul Kate, for the Applicant in both applications.

Mr. S.S. Pednekar, APP for the State in ABA No.1012 of 2016

Mr. Deepak Thakery, APP for the Respondent State in ABA No.1011 of 2016.

CORAM : A. M. BADAR, J.

DATE : 17th JUNE, 2016.

P.C. :

1. By these applications, the applicants/accused in crime No. 237 of 2016, for the offences punishable under Sections 379 read with 34 of the Indian Penal Code and under Sections 3 and 4 of Mines and Minerals (Regulation and Development) Act, registered with police station, Daund, District: Pune, at the instance of Santosh Indule, Gav Kamgar Talathi, are praying for releasing them on bail, in the event of

their arrest.

2. Heard learned counsel for the applicants. He argued that the offence is alleged to have happened on 2.5.2016; whereas the F.I.R. is lodged by Talathi on 10.05.2016. The learned counsel further submitted that two of the applicants are members of Gram Panchayat and out of political rivalry they are being falsely implicated in the offence in question. He further argued that two applicants have already informed the revenue authorities regarding theft of sand and for taking action.

3. As against this, the learned APP argued that the statements of witnesses prima facie depict complicity of the applicants in the crime in question.

4. The perusal of the F.I.R. goes to show that the Tahsildar has directed his subordinate officers to conduct raid in respect of theft of sand from the river bed. In pursuant to that directions, the squad of revenue department headed by informant Santosh Idule, raided the spot at 7.30 a.m. of 2.5.2016. The informant reported that when they visited the spot, they saw unauthorized excavation of sand from the river bed by means of five J.C.B. Machines. Strangely F.I.R. reflects that drivers of J.C.B. machines took away those J.C. B. machines towards Pedgan village. when the squad of the revenue department went to the spot. No machines or instruments of excavation were found on the spot as such.

5. The papers of investigation further reveals that on enquiry made with the locals, it was concluded that one of the J.C.B. was owned by applicant Santosh and applicant Sachin; another J.C.B. machine was owned by applicant Gokarna Khedkar and applicant Madhukar. The F.I.R. is conspicuously silent as to how heavy vehicle like J.C.B. could escape when the Revenue Officers raided the spot. The registration numbers of those vehicles were neither recorded by the informant nor found during the course of investigation. Only some of locals from villages have stated the names of present applicants.

6. In the wake of these facts, learned counsel for applicant has pointed out that two of the applicants are the members of Gram Panchayat. They had preferred complaints dated 1.3.2016 and 16.4.2016, apart from another complaint on 3.5.2016 to the revenue authorities complaining about illegal excavation of sand and their apprehension that they may be falsely implicated, in the offence of illegal excavation of sand at the instance of their political rivalries.

7. Considering this material, false implication of applicants, in the crime in question cannot be ruled out in order to settle the political rivalry. Prima facie complicity of applicants in the crime in question is not seen. As such the following order.

Order

- I) The applications are allowed.
- II) In the event of arrest of applicants in both applications, in the above crime, they be released on bail on their executing P.R. Bonds in the sum of Rs.10,000/- by each of them and on their furnishing sureties in the like amount.
- III) The applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) They shall attend the concerned police station on every Sunday in between 11.00 a.m. to 1.00 p.m., till filing of the chargesheet and they shall co-operate the Investigating officer.
- V) They shall not tamper with the prosecution evidence in any manner and shall not commit offence of similar nature in future.

[A. M. BADAR, J.]